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EXHIBIT NO. 1

DATE Feb. 4, 2009

BILL NO. SB 193  
10th Century Trail and Boundary Stone

TO: Senate Natural Resources Committee  
FROM: Steve Niday, PLS 10998S  
DATE: February 3, 2009  
RE: SB 193

I support Senate Bill 193, an act requiring the preservation of monuments for the purpose of land surveys. I have been a surveyor for Missoula County for 30 years, and have witnessed first hand the problems that survey monument destruction can cause. Private and public entities are often greatly burdened by additional costs due to survey monument destruction, both in the form of increased survey costs and potentially significant litigation costs. I believe this act would provide me a tool to help protect survey monuments, and therefore, the public. It is much less expensive, and more reliable, to replace a monument that has been properly referenced, than re-establish it from other sources.

There is a vast body of written material; federal, state and local laws and regulations, court opinions, and published material, affirming and supporting the importance of the physical survey monument. It is the physical monument that is given the most weight and is superior to all other evidence when determining land boundaries. It is this rule of man, and actually all animals, which is essential to the orderly occupation of land. There are boundary stones that have been in place for 5000 years. I would argue that physical monuments to mark claims of ownership began when the first animal marked a natural object with a natural substance. Since we believe ourselves to be a bit more civilized than other animals, we use different materials to monument our claims and different methods to determine the proper location for the monuments, but the principle is the same. The monument rules, and the ancients placed such a high value on them they invoked specific deities to protect them and curse any who would disturb them.

Montana was originally surveyed and divided into sections and townships, in what is known as the Public Land Survey System (PLSS). It is from this initial framework that private claims were filed under the Homestead Act. This PLSS framework was monumented, and these monuments serve as the best evidence of the location of the original private claims. Since the initial claims were made, many have been divided into smaller areas. Each time a division is made, the controlling element for the location of the new lines is the existing monuments. Lose one monument and additional resources are expended to determine the position that monument held. Replace one monument and some uncertainty is included in its position. Every time this process repeats itself additional resources are necessary to determine the position and additional uncertainty is introduced. In other words, anytime a monument is lost; the effects are potentially felt by more than just the property owner whose monument was destroyed. "My" monument most likely marks my neighbors claim also. If "our" monument is lost, it very well might affect the person down the road.

Thank you,  
Steve Niday